

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE PETITION OF THE)
PUBLIC SERVICE COMMISSION STAFF AND)
DELAWARE DIVISION OF THE PUBLIC)
ADVOCATE TO ESTABLISH A REGULATION) PSC DOCKET NO. 18-0935
FOR DISTRIBUTION SYSTEM INVESTMENT)
PLANS FOR DELAWARE ELECTRIC AND)
NATURAL GAS UTILITIES)
(FILED JULY 2, 2018))

ORDER NO. 9698

AND NOW, this 6th day of January 2021, the Delaware Public Service Commission ("Commission") determines and orders the following:

WHEREAS, the Commission's Electric Service Reliability and Quality Standards, 26 *Del. Admin. C.* § 3007 (the "Regulations"), were published and became final pursuant to Order No. 9541 and the Administrative Procedures Act ("APA") on April 11, 2020; and

WHEREAS, pursuant to Section 6.2.1,¹ Delmarva Power & Light Company ("Delmarva") is required to submit an annual proposed rolling 3-year Infrastructure, Safety, and Reliability Plan ("Proposed ISR Plan") identifying proposed capital spending necessary to maintain the reliability and quality of its distribution services; and

WHEREAS, Sections 6.2.1.1 through 6.2.1.4 of the Regulations mandate that Delmarva's Proposed ISR Plan be structured under the following major spending categories: Mandatory; Non-Mandatory; Vegetation Management; and Inspection and Maintenance; and

¹ Unless stated otherwise, all citations to the Regulations in this Order exclude "3007."

WHEREAS, Section 6.2.4 states that, in order to support each of its proposed annual budgets, Delmarva's Proposed ISR Plan shall describe: "how the EDC developed the spending plan and levels; reference of applicable proposed projects to the LRDP,² the justification, scope, and estimated cost, for each planned project of \$1,000,000 or more; planned I&M activities and expected improvements; other planned reliability or maintenance programs; and planned vegetation management targets and activities[;]"³ and

WHEREAS, Section 6.2.5 provides that the Proposed ISR Plan shall include Delmarva's estimated cost of plant in service and cost of removal for each year of the three-year term; and

WHEREAS, Section 6.2.6 states that "[f]or major projects or groups of related projects in the System Capacity/Load or Asset Condition categories that exceed \$1,000,000 over the term of the ISR and were not included in the LRDP, the [Proposed] ISR [Plan] will include the information required in subsections 6.1.2.3 and 6.1.2.4[;]" and

WHEREAS, the Regulations set forth the timing for (a) Delmarva's required submission of its Proposed ISR Plan to Commission Staff ("Staff") and the Division of the Public Advocate ("DPA");⁴ (b) discussion conferences among Delmarva, Staff, and the DPA;⁵ (c) Staff's and the DPA's respective opportunities to file written comments;⁶ (d) Delmarva's opportunity to file reply comments;⁷ and (e) Delmarva's required submission of its Proposed ISR Plan to the Commission;⁸ and

² Long Range Distribution Plan. Unless otherwise noted, capitalized terms shall have the meanings ascribed to them in the Regulations.

³ Section 6.2.4.

⁴ Sections 6.2.1 and 6.3.1.

⁵ Section 6.3.1.

⁶ Section 6.3.3.

⁷ Section 6.3.4.

⁸ Sections 6.2.1 and 6.3.2.

WHEREAS, on July 7, 2020, Delmarva submitted its Proposed ISR Plan to Staff and the DPA; and

WHEREAS, during August through October 2020, Delmarva, Staff, and the DPA provided and responded to written data requests and participated in teleconferences concerning the Proposed ISR Plan; and

WHEREAS, on November 4, 2020, Delmarva filed its Final ISR Plan with the Commission; and

WHEREAS, on November 13, 2020, Staff and the DPA submitted comments on Delmarva's Final ISR Plan, in which their consultant expressed concern about the manner in which Delmarva develops its planned level of capital investment as compared to actual project implementation, the structure of Delmarva's Final ISR Plan, the level of Delmarva's planned spending as it relates to additional reliability, that Delmarva's actual project costs are often higher than the estimated project costs and that Delmarva did not include cost-benefit analyses for many of the proposed projects; identified specific project/program concerns with respect to Distribution Automation, and Substation Transformer Replacement; and pointed out that Exelon's business model is to increase its utility companies' rate base to increase earnings; and

WHEREAS, on November 23, 2020, Delmarva submitted comments in response to Staff and DPA's comments noting that the Final ISR Plan provides the Commission with the requisite summary of Delmarva's distribution system planning process, sets forth its anticipated capital spending expenditures, and explains that, while the consultant's opinion were helpful and informative, that Delmarva's professional judgment led it to follow a different approach when maintaining its systems and services in Delaware, that any ISR Plan must be able to accommodate

actual system needs with various priorities from different business units as forecast over the span of several years, and that the Commission's role is to acknowledge that Delmarva's Final ISR Plan has been filed and is consistent with the Regulations rather than conduct a project-by-project audit of the Final ISR Plan;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. Pursuant to 26 *Del. Admin. C.* § 3007-6.3.5, the Commission hereby acknowledges that Delmarva's Proposed ISR Plan and any associated comments has been filed and is consistent with the Regulations; provided however, that the Commission's acknowledgement shall not constitute Commission pre-approval of any proposed capital spending necessary to maintain the reliability and quality of the Delmarva's distribution services.

2. In accordance with 26 *Del. Admin. C.* § 3007-6.3.6, any party may challenge Delmarva's attempt to recover the amounts spent to maintain the reliability and quality of its distribution system and services in a future rate case.

3. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Dallas Winslow, Chairman

Joann Conaway, Commissioner

Harold Gray, Commissioner

Manubhai "Mike" Karia, Commissioner

Kim F. Drexler, Commissioner

ATTEST:

Donna Nickerson, Secretary